

ANALYSIS OF AMENDED BILL

Franchise Tax Board

Author: Dunn Analyst: Roger Lackey Bill Number: SB 711

Related Bills: None Telephone: 845-3627 Amended Date: APTBA

Attorney: Patrick Kusiak Sponsor: _____

SUBJECT: Employer Deduction & PIT Exclusion/Survivor Benefits Of Persons Killed In U.S. Terrorist Attack

SUMMARY

For the survivors of any person killed in the September 11, 2001, terrorist attack on the United States of America (USA), this bill would exclude from taxation any amount received from the deceased's employer.

For taxpayers that paid a benefit to a survivor of any person killed in the September 11, 2001, terrorist attack on the USA, this bill would allow a deduction for that amount.

SUMMARY OF AMENDMENTS

The proposed amendments would delete the prior language of the bill regarding state employers and specific employee bargaining units and would add language as described in the "SUMMARY" above.

This is the department's first analysis of the bill.

PURPOSE OF THE BILL

The purpose of the bill is to provide tax relief for survivors of the victims of the September 11, 2001, terrorist attack.

EFFECTIVE/OPERATIVE DATE

This bill is a tax levy and would be effective upon enactment. The provisions of the bill specify that each would be operative for any amount received or paid after September 11, 2001. This bill would be repealed July 1, 2002.

POSITION

Pending.

Board Position:

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|-----------------------------|------------------------------|---|
| <input type="checkbox"/> S | <input type="checkbox"/> NA | <input type="checkbox"/> NP |
| <input type="checkbox"/> SA | <input type="checkbox"/> O | <input type="checkbox"/> NAR |
| <input type="checkbox"/> N | <input type="checkbox"/> OUA | <input checked="" type="checkbox"/> PENDING |

Department Director

Date

Alan Hunter for GHG

1/07/02

ANALYSIS

FEDERAL/STATE LAW

Currently, no federal law exists that would allow a victim of a terrorist attack survivor's an exclusion from income taxes, or taxpayer's a deduction for amounts paid to survivors

Currently, federal legislation has been proposed to exempt from income taxes and the additional estate tax any individual who died as a result of the September 11, 2001, terrorist attacks, unless the deceased was a perpetrator of the attacks. The proposed legislation is H.R. 2884 and is known as the Victims of Terrorism Relief Act of 2001.

State and federal laws allow certain items of income to be excluded from gross income, including life insurance benefits paid to a beneficiary after the insured dies. Other items excluded from gross income include compensation for service as a member of the armed forces in a combat zone, amounts received under employee accident and health plans, amounts paid for health coverage, and certain payments for disability.

Current state and federal laws generally allow taxpayers engaged in a trade or business to deduct all expenses that are considered ordinary and necessary in conducting that trade or business.

Existing federal and state laws provide that gross income includes all income from whatever source derived, including compensation, business income, gains from property, dividends, rents, interest, and royalties, unless specifically made exempt.

THIS BILL

This bill would exclude from gross income any amount received by a survivor of any person killed in the September 11, 2001, terrorist attack. To be excluded, the amount is required to be received from the employer of the person killed.

This bill also would allow a deduction for any amount paid or incurred as a benefit to the survivor of any person killed in the September 11, 2001, terrorist attack.

IMPLEMENTATION CONSIDERATIONS

This bill would allow any types of payments from employers to survivors to be excluded from gross income and would allow amounts paid as benefits to the survivors by any taxpayer to be deducted. However, since no relationship is required to exist between the survivor and the taxpayer, any taxpayer could provide any amount for any reason to a survivor to obtain a tax deduction.

The term "survivor" is not defined. Survivor could mean the spouse, children, relative, or even the surviving business of the decedent. Without a definition it is unclear who or what would be included as a survivor.

For tax purposes "person" can include a business entity. Rather than using the term "person," individual should be used in referring to people killed by the terrorist attacks of September 11, 2001.

A number of the individuals that died as a result of the terrorist attack of September 11, 2001, did not pass away until a day or days after the attack. It is possible that these deaths might not satisfy the requirement of this bill.

Generally, income is tied to the taxable year in which it was received. For example, income received as compensation for a deceased spouse in December of 2001, would be considered income received for the 2001 taxable year. However, since this bill would likely be enacted into law after January 1, 2002, this bill would provide a retroactive exclusion for 2001. As a result, this bill would create a gift of public funds because it would exempt from tax compensation properly included in gross income in a prior taxable year.

This bill may limit its effectiveness by applying only to amounts received or paid before July 1, 2002. Many amounts may not be received or paid until after that date. The author may want to consider extending the repeal date to January 1, 2003, rather than July 1, 2002.

OTHER STATES' INFORMATION

No information is yet available to determine whether any other states are considering providing similar relief as proposed by this bill.

FISCAL IMPACT

This bill would not significantly impact the department's costs.

ECONOMIC IMPACT

Revenue Estimate

The revenue impact of this proposal is unknown but projected to be minor, losses of less than \$250,000 annually in 2001-02 and 2002-03.

LEGISLATIVE STAFF CONTACT

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